

July 24, 2019
City Council

CBA HOUSING ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of local government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, the City's home-rule authority includes the power to enact ordinances and regulations aimed at preserving safe, decent, and affordable housing in Chicago; and

WHEREAS, the City is experiencing a shortage of affordable housing; and

WHEREAS, the lack of affordable housing is a critical problem, which threatens the economic and social quality of life in the City; and

WHEREAS, the City Council finds that the 2015 Affordable Requirements Ordinance, Section 2-44-080 (formerly 2-45-115) of the Municipal Code, is insufficient to prevent displacement and broad demographic change in neighborhoods facing significant displacement pressure, and that additional measures are necessary to increase production of affordable housing, protect vulnerable residents, and create neighborhoods where residents of all incomes can thrive; and

WHEREAS, the DePaul Institute of Housing Studies has classified the area surrounding the Obama Presidential Center (the "OPC") as vulnerable to displacement due to a high share of rent-burdened families and increasing property and rental costs; and

WHEREAS, since the announcement of OPC, the property values and sales amounts in the immediately surrounding area of the OPC have increased at among the highest rate in the country; and

WHEREAS, in 2017, Redfin reported that since the announcement of OPC, the area around the OPC had the third-highest increase in estimated home values compared to that of its metro area in the country; and

WHEREAS, when approving the lease and master use agreement for the OPC, the City recognized the significant potential for "demographic change and displacement arising from large-scale public and private investment in urban neighborhoods and is committed to closely monitoring property values and other indicators of neighborhood change and implementing measures to preserve economic diversity, home ownership and affordability for long-time residents in the communities surrounding the OPC"; and

WHEREAS, housing stability and neighborhood stability is vitally important for an economically and healthy City; and

WHEREAS, the DePaul Institute for Housing Studies has shown that catalytic investments such as the 606 Trail in Logan Square and Humboldt Park have shown extreme elimination of affordable housing units in those neighborhoods; and

WHEREAS, development alone is not sufficient to reinvest in the people of a community, and appropriate policies and solutions need to be crafted to ensure that investment into a historically disinvested community flows to the people that currently reside there, and not just the built environment and future residents; and

WHEREAS, the Obama CBA Area contains a significant number of vacant city owned lots, which can be intentionally utilized to build community wealth, support resident homeownership, and prevent displacement; and

WHEREAS, the voters in the area surrounding the OPC overwhelmingly approved a referendum that the local aldermen should approve “Obama CBA Ordinance” that would create a 30% set aside for affordable housing, create a community trust fund for affordable housing and economic development, and provide property tax relief to long-time low, moderate and middle income residents; and

WHEREAS, it is necessary, desirable, and in the public interest to protect the existing affordable housing stock, build community wealth, to minimize the displacement of long-time residents and to avoid the wholesale gentrification of the OPC Residential Area; and

WHEREAS, the passage of this reform ordinance is calculated to maintain and preserve existing affordable housing units and create new affordable housing units in the OPC Residential Area; and

WHEREAS, this Obama CBA Ordinance is intended to promote equitable neighborhood development, increase housing choice for residents of all income levels, minimize displacement of long-term residents in the Obama CBA Residential Area, and address disparities in social and economic outcomes for the residents of Chicago; and

WHEREAS, significant investment is needed from public and private sources into the preservation and creation of affordable housing, supporting local employment training, establishing a pipeline from schools to employers, and building and retaining community wealth with the long-time residents; and

WHEREAS, the Trust will be capitalized by a combination of moneys appropriated by the City Council of the City and capital provided by a range of third parties; and

WHEREAS, repayment of any moneys provided by the Trust to finance or support any project will not be a general obligation of the City and will not be secured by the City's full faith and credit; and

WHEREAS, it is in the best interest of the City of Chicago to establish a professionally managed and governed trust fund (the “Trust”) to manage public and private investments with community oversight into the OPC Residential Area to invest in the residents of the area in addition to investments into the building and the land; and

WHEREAS, the increase in property values may result in increased incentive for building owners to sell their buildings, and leave tenants vulnerable to displacement; and

WHEREAS, ensuring that renters are not displaced due to rising property values and the incentive to sell; and

WHEREAS, creating more incentives for non-profit affordable housing developers to obtain and keep affordable housing units is in the best interest of the City;

WHEREAS, creating opportunities for tenants to purchase the buildings they live in is a possible method of preventing displacement; **now, therefore**,

Be it ordained by the City Council of the City of Chicago

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. Chapter 2-44 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-44-135, as follows:

2-44-135 Obama CBA Residential Area Affordable Housing Pilot Ordinance.

(A) Title. This section shall be known and cited as the "Obama CBA Residential Area Affordable Housing Pilot Ordinance."

(B) Purpose. The purpose of this section is to establish modified affordable housing requirements for designated neighborhoods near the proposed Obama Presidential Center that are at risk of displacement. The goals of these modified requirements are to mitigate the displacement impacts associated with increased development in a historically disinvested community of color, better protect the interests of the area's economically vulnerable residents from demographic and housing market change and preserve the economic diversity critical to a healthy economy.

(C) Relationship to 2015 ARO. The requirements in this section supplement or modify the affordable housing requirements in Sec. 2-44-080. In the event of a conflict between these requirements and the requirements in Sec. 2-44-080, the requirements in this section will control.

(D) Definitions. Except as provided below, defined terms shall have the meanings given in Sec. 2-44-080.

"Affordable" means a sales price or rent less than or equal to the amount at which total monthly housing costs, as specified in the rules and regulations, would total not more than thirty percent (30%) of household income for a household whose income is the maximum allowable for an eligible household.

"Affordable housing" means (1) with respect to rental housing, housing that is affordable to households earning up to fifty percent (50%) of the area median income, and (2) with respect to owner-occupied housing, housing that is affordable to households earning up to eighty percent (80%) of the area median income.

"Affordable unit" means a housing unit required by this section to be affordable or deeply affordable, whether located on-site or off-site and whether a rental unit or an owner-occupied unit.

"Affordable housing agreement" means a covenant, lien, regulatory agreement, promissory note, mortgage, deed restriction, right of first refusal, option to purchase or similar instrument, governing how the developer and subsequent owners or occupants of affordable units shall comply with this section.

"Demolition" means any action resulting in the complete or partial, interior or exterior, destruction of a building, structure, or portion thereof, or the combination of two or more housing units to make a larger unit, or any action that results in a reduction in the number of housing units on a covered property.

"Deeply affordable housing" means (1) with respect to rental housing, housing that is affordable to households earning up to thirty percent (30%) of the area median income, and (2) with respect to owner-occupied housing, housing that is affordable to households earning up to eighty percent (80%) of the area median income.

"Owner-Occupied" means any building with six (6) residential units or less where the owner occupies the unit as the owner's primary residence and has for at least the year prior to any rezoning, substantial rehabilitation, demolition, or other action which would subject a residential housing project to requirements of this Section.

"Qualifying Locally Controlled Community Land Trust" means a community land trust, whether privately or publicly operated, where the majority of its Board of Directors or the applicable decision-making body determining affordability for properties in the Obama CBA Residential Area is composed of residents of the Obama CBA Residential Area or residents of properties in the community land trust and which limits the sale of its properties to households earning up to 80% AMI.

"Residential housing project" means one or more buildings that collectively contain one or more new or additional housing units on one or more parcels or lots under common ownership or control, including contiguous parcels. A "residential housing project" may be developed in one or more phases and may consist of new construction, substantial rehabilitation, or the conversion of rental housing to condominiums. In determining whether a development constitutes a residential housing project, the Department will consider all relevant factors, including whether the development is marketed as a single or unified project, shares common elements, or is a phase of a larger development. The definition of "residential housing project" shall be interpreted broadly to achieve the purposes of this section and to prevent evasion of its terms.

- (E) **Boundaries.** This Section shall apply to the Obama CBA Residential Area. A map of the Obama CBA Residential Area is on file in the Office of the City Clerk and made a part hereof. The boundary lines of the Area follow streets, and such boundary lines are to be construed as the center lines of said streets.

(F) **Modified ARO Requirements.** The requirements of Section 2-44-080 shall apply to the Obama CBA Residential Area, except as modified below

- (1) **No in lieu fee option.** The option to pay a fee in lieu of the establishment of affordable units is eliminated in the Obama CBA Residential Area.
- (2) **Required Percentage of Affordable Units.** Except as provided in subsection (F)(5) below, the percentage of units required to be affordable in a residential housing project in the Obama CBA Residential Area, whether rental or for-sale, is increased from 10 percent to 30 percent.
- (3) **Increased Applicability.** The Obama CBA Residential Area Pilot Ordinance shall apply:
 - (i) **Rezoning.** Whenever the City approves the rezoning of property, and such property is subsequently developed with a residential housing project which creates three (3) or more new units.
 - (ii) **City Land.** Whenever the City sells real property to any developer and such property or any portion thereof is (a) subsequently developed with a residential housing project, or (b) incorporated into a residential housing project site in order to satisfy minimum off-street parking, minimum lot area, setback or other zoning or Municipal Code requirements or standards.
 - (iii) **Demolitions.** Whenever a residential housing project undergoes a demolition. The number of affordable units required in the case of a demolition will be determined based on the higher number of either the number of total housing units prior to the demolition or the number of total housing units in any resulting residential housing project. This subsection (F)(3)(iii) shall only apply where the residential housing project that is demolished is three (3) or more units or where the subsequent residential housing project that is built is three (3) or more units.
 - (iv) **City Financial Aid.** Whenever the City provides financial assistance to any developer in connection with the development of a residential housing project of three (3) or more units.
 - (v) **Substantial Rehabs.** Whenever the City approves a building permit for a substantial rehabilitation of any residential property with six (6) or more units. This requirement does not apply to building permits issued for (a) repairs that merely bring a building into compliance with applicable building codes or (b) construction that is undertaken for the sole purpose of increasing the accessibility of the building for people with disabilities or seniors.

(4) Affordability standards and Income eligibility criteria for City Land Sales.

Whenever the City sells or otherwise transfers real property to any developer and such property or any portion thereof is (a) subsequently developed with a developed into residential housing of any size, or (b) incorporated into a residential housing of any size in order to satisfy minimum off-street parking, minimum lot area, setback or other zoning or Municipal Code requirements or standards, the developer shall be required to establish no less than one hundred percent (100%) of the housing units in the residential housing project as affordable housing except in the instances specified in subsection (F)(5).

(5) Specific City Land Uses.

(i) The requirements of this Section will not apply to the following instances:

- a. Sales or transfers of city owned land made through the program "City Lots for Working Families."
- b. Residents of the Obama CBA Area who purchase or otherwise receive city owned land for the purpose of developing a residential unit which will be used as that resident's primary residence

(ii) The following instances require 30 percent of units, whether rental or sale, to be affordable;

- a. Any sales or transfers of city owned land to the Chicago Housing Authority
- b. Any sales or transfers of city owned land where any subsequent developed into residential housing of any size are developed in partnership with the Chicago Housing Authority
- c. Any sales or transfers of city owned land to current residents of the Obama CBA area that are subsequently developed into residential housing of any size (including single family home developments)
- d. Any sales or transfers of city owned land to a group or association of individuals where the majority are residents of the Obama CBA Area or a non-profit entity controlled by residents of the Obama CBA Area, such as Community Land Trusts or a community land bank

(6) Affordability standards and Income eligibility criteria for rental units:

- (i) **For rental units that do not receive city financial aid.** Affordable rental units in the Obama CBA Residential Area for which must be affordable to households earning up to fifty percent (50%) of the area median income. Additionally, thirty-three percent (33%) of all affordable rental units in the Obama CBA Residential Area must be deeply affordable units.

- (ii) **For rental units that receive city financial aid.** Affordable rental units in the Obama CBA Residential Area must be affordable to households earning up to fifty percent (50%) of the area median income. Additionally, sixty-six percent (66%) of all affordable rental units in the Obama CBA Residential Area must be deeply affordable units.
- (7) **Affordability standards and Income eligibility criteria for sales units.** Affordable sales units in the Obama CBA Residential Area must be affordable to households earning up to eighty percent (80%) of the area median income.
- (8) **Requirements for Larger Bedroom Rental Units.** For all residential housing projects subject to this Section that are required to create a total of ten or more affordable rental units, at least fifty percent (50%) of the required affordable units and deeply affordable units must be units containing two or more bedrooms (“multi-bedroom units”). Of such required multi-bedroom units, forty (40%) of those required multi-bedroom units must be units containing three or more bedrooms.
- (9) **Location Requirements.** Except for sales units that satisfy the requirements of this Section under subsection (F)(10), all of the required affordable units must be built on-site.
- (10) **Community Land Trust Option.** A developer of sales units may satisfy the affordable units requirements by placing any number of sales units within the Obama CBA Residential Area with a qualifying locally controlled community land trust or the Chicago Community Land Trust. Any initial sale amount to a locally controlled community land trust or the Chicago Community Land Trust of such affordable housing unit shall be subject to the income eligibility and price restrictions set forth in this Section.
- (11) **Community Engagement Requirements.** All residential housing projects subject to the requirements of this Section shall be required to conduct at least two community meetings within half a mile of the site of the project. At such meetings, the developer will present plans to community members for comment. The Chief Engagement Officer may develop further rules and specifications regarding conducting these meetings.
- (G) **Exempt Buildings.** This section shall not apply to any owner-occupied buildings of six units or less.
- (H) **Reporting.** All affordable units created under this section shall be reported to the Department of Housing and the Commissioner, as directed by the Commissioner. The Commissioner shall create and maintain a list of affordable units created under this section and shall require the owner of those affordable units to report yearly that the units are being occupied by residents meeting the requirements of this Section, the total rent charged, any periods of vacancy, and other information the Commissioner deems relevant.

- (I) **Displacement Studies.** The Department of Housing, in coordination with the Chief Engagement Officer, will create a standing committee (the “taskforce”) on housing conditions and displacement in the Obama CBA Residential Area.
- (1) **Goals.** The goal of the taskforce is to study housing conditions and displacement through a racial equity lens.
- (2) **Activities.** The taskforce will:
- (i) Conduct ongoing monitoring on the effects of the Obama Presidential Center on housing conditions in the Obama CBA Residential Area, specifically focusing on displacement of low, moderate, and middle income residents.
 - (ii) Provide recommendations that prevent displacement, build community wealth through homeownership, retain and create affordable housing, and reduce tax burdens for low, moderate, and middle income residents.
 - (iii) In coordination with the City’s Chief Engagement Officer, the taskforce will regularly present findings and engage the community for feedback at accessible locations. These shall happen at least quarterly, beginning no later than January 30, 2020.
- (3) **Composition.** The Commissioner will determine the members of the taskforce, which will include at least two residents of the Obama CBA Residential Area who are renters, one person with expertise on housing conditions, one person with direct community experience advocating for affordable housing, a representative from a non-profit developer, and other individuals as determined by the Commissioner.
- (J) **Pending Applications.** This section shall apply to all residential housing projects subject to the affordable housing requirements herein, unless: (1) an ordinance authorizing a city land sale or financial assistance, as described in Sec. 2-44-080(C), has been introduced to city council prior to November 1, 2019; or (2) an ordinance authorizing a rezoning of property, as described in Sec. 2-44-080(C), has been introduced to city council and (i) in the case of projects that are subject to planned development review, the Chicago Plan Commission has adopted a resolution recommending approval of the planned development prior to November 1, 2019, or (ii) in the case of any other rezoning of property, the Committee on Zoning, Landmarks and Buildings Standards has voted to approve the rezoning prior to November 1, 2019.
- (K) **Rules.** The commissioner is; authorized to adopt such rules as the commissioner may deem necessary for the proper implementation, administration and enforcement of this section. The commissioner shall provide an annual report to the City Council Committee on Housing and Real Estate detailing the outcomes of the pilot program.
- (L) **Expiration.** This section shall expire and be repealed of its own accord, without further action by the City Council, on December 31, 2029.

SECTION 3. The Obama CBA Community Trust Fund

(A) Organization and Qualification of the Obama CBA Community Trust Fund.

The Chief Financial Officer of the City, the City Comptroller of the City and the Corporation Counsel of the City are each authorized and directed to take such steps as may be necessary to enable the Trust to become duly organized and qualified as an Illinois not-for-profit organization. (If, at any time, no person is appointed to serve in the position of Chief Financial Officer, then, for all purposes of this Ordinance, the term "Chief Financial Officer" shall mean the City Comptroller.)

(B) Board of Directors

- (1) The Board of Directors of the Trust shall consist of eleven (11) voting members ("Voting Members"). Eight of the Voting Members shall be elected residents of the Obama CBA Residential Area (the "Elected Members") and three of the Voting Members shall be appointed by the Aldermen from the Obama CBA Residential Area (the "Appointed Members").
- (2) The Elected Members will be voted on by the residents who are eighteen (18) years of age and older of the Obama CBA Residential Area. Of the Elected Members, one (1) of the Elected Members shall be a member with a disability, three (3) of the Elected Members shall be renters, two (2) of the Elected Members shall be renters with a rental subsidy, two (2) of the Elected Members shall be homeowners, one (1) of the Elected Members shall be under the age of 25, and one of the Elected Members shall be a small business owner.
- (3) The Appointed Members shall be appointed by the Aldermen from the Obama CBA Residential Area. One (1) of the Appointed Members shall be a representative of the University of Chicago, one (1) of the Appointed Members shall be a representative of the Obama Foundation, and one (1) of the Appointed Members shall be a representative of the Obama Community Benefits Agreement Coalition.
- (4) Each Voting Member (a) will serve for a term of two years. Each Voting Member will serve until his or her successor is duly qualified and elected or appointed. Any appointment or election of Voting Members subsequent to the appointment of the initial Voting Members shall occur within one year of any vacancy created.

Voting Members appointed pursuant to sub-section (3) will be subject to removal for cause by the City Council.
- (5) Any Voting Member who has a financial interest in any entity that is being considered by the Trust to perform work for the Trust or for the City, to receive funds from the Trust or from the City, or to provide funds to or otherwise make an investment in the Trust, shall recuse himself or herself from any vote of the Board

of Directors regarding said entity. For purposes of this paragraph, the term "financial interest" shall be defined as provided in Chapter 2-156, as amended from time to time of the Municipal Code of Chicago, (the "Municipal Code"). Pursuant to this paragraph, all Voting Members owe the Trust a fiduciary duty, and accordingly are strictly prohibited from making decisions or recommendations on behalf of the Trust for personal financial gain.

- (6) The Chair of the Board of Directors of the Trust will be selected by the Voting Members. Other officers of the Board of Directors will be selected by the Voting Members. The Chair and other officers will serve one-year terms.
- (7) The Board of Directors of the Trust will not receive a salary and will be compensated only for reasonable out-of-pocket expenses in accordance with procedures approved by the Board.

(C) Staffing and Personnel; Professional Services

- (1) Subject to the availability of funds duly appropriated, it is hereby directed that for the period from the effective date of this Ordinance and ending on May 31, 2020, an amount not to exceed \$200,000 may be transferred to the Trust for professional services and otherwise to assist the Trust in accomplishing its purposes and objectives as described in this Ordinance.
- (2) For the period through May 31, 2020, the Office of the Chief Financial Officer and the Department of Finance are each authorized to provide such staff support to the Trust as may be required to accomplish their respective purposes and mission, including, without limitation, operations and administration of the Trust prior to hiring of an Executive Director and/or other, staff.
- (3) The Chief Financial Officer and the City Comptroller (each an "Authorized Officer") are each authorized to negotiate: (i) grant agreement(s) with the Trust that set forth the terms and conditions pursuant to which funding authorized by sub-section (a) will be provided to the Trust; and (ii) agreement(s) with the Trust that set forth the terms and conditions pursuant to which staff support authorized by sub-section (b) will be provided to the Trust.

(D) Grant of Funds

- (1) Subject to the availability of funds duly appropriated, it is hereby directed that an amount not to exceed \$2,500,000 be transferred to the Trust in one or more grants to support projects to be financed and supported by the Trust in furtherance of the purposes and objectives as described in this Ordinance. The Authorized Officers are each authorized to negotiate agreement(s) with the Trust that set forth the terms and conditions of any such grant(s).

(E) Revenue

[RESERVED]

(F) Goal of the Trust; Spending of the Trust Funds

- (1) The Trust is organized with the specific goals of:
 - (i) Creating and preserving affordable housing for households earning less than 50% of the Area Median Income;
 - (ii) Supporting homeownership for households earning less than 80% of the Area Median Income and households earning between 80% and 120% of the Area Median Income;
 - (iii) Supporting employment access for local residents, emphasizing those with barriers to employment;
 - (iv) Supporting and creating small business opportunities for local residents;
 - (v) Engaging with the community for input on local decision-making;
 - (vi) Preventing the displacement of low, moderate, and middle income residents in the area surrounding the Obama Presidential Center
- (2) The Trust shall focus on the geographic area of the Obama CBA Residential Area. A map of the Obama CBA Residential Area is on file in the Office of the City Clerk and made a part hereof. The boundary lines of the Area follow streets, and such boundary lines are to be construed as the center lines of said streets
- (3) The Trust's Board of Directors shall determine how funds are distributed from the Trust in pursuance of the purposes and objectives of this ordinance. The Trust may authorize expenditures consistent with the purposes and objectives of this Ordinance and consistent with the specific goals identified in Subsection (a), limited to the following categories of expenditures within the Obama CBA Residential Area:
 - (i) Subsidizing low- and moderate-income residents' rents;
 - (ii) Pay for low, moderate, and middle income long-time (ten years or more) residents' property tax increases;
 - (iii) Provide loans, funds, or grants for low, moderate, and middle income residents with barriers to traditional financing in order to promote homeownership;
 - (iv) Grants for home repairs for long-time (ten years or more) residents with barriers to accessing private financing;
 - (v) Funding affordable housing projects;
 - (vi) Providing loans and grants for developers to preserve and/or expand affordable housing;

- (vii) Providing loans, grants, and other finances to small businesses;
- (viii) Providing local economic development grants;
- (ix) Funding workforce development initiatives;
- (x) Establishing or funding business development centers for career building and building pipeline to good jobs;
- (xi) Establishing or funding existing jobs center(s) for job training, placement, and referral.

(4) Any project over \$500,000 in total cost shall require the approval of City Council.

(G) Conditions to Receipt of City Grants

As a condition to the execution and delivery of any grant agreement(s) authorized this Ordinance, such agreements will provide for the following, all determined or established to the reasonable satisfaction of the applicable Authorized Officer:

- (1) The Trust will, consistent with the purposes and objectives as described in this Ordinance, establish criteria for all investments, grants, and other moneys received by the Trust from third parties. It will develop financing structures, grant requirements, and lending requirements for all projects undertaken by the Trust.
- (2) The Trust shall have no power to pledge the full faith and credit of the City nor shall any obligation issued by the Trust (or any entity sponsored by the Trust) in connection with any project be a general obligation of the City.
- (3) The Trust will require full disclosure from investors, grantors, and lenders on all projects and will require completion of disclosure statements that will be substantially similar to the economic disclosure statements required of third parties for transactions with the City. The Trust will make each such disclosure statements available online for public review.
- (4) The Trust will be responsible for overseeing preparation and auditing of its financial statements, including full compliance with applicable generally accepted accounting principles.
- (5) The Trust will provide public notice of its meetings and conduct its meetings in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., as now enacted or as hereafter amended. The Trust will post and maintain online, for public review, the minutes of its meetings.
- (6) The Trust will provide public access to books, records, minutes and documents, in accordance with the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq., as now enacted or as hereafter amended ("FOIA").
- (7) The Trust will cooperate with the City with respect to compliance with the requirements of FOIA concerning any public documents or records that are in the

possession of the Trust but are nonetheless subject to the City's obligation to provide public access under FOIA.

- (8) Commencing in 2020 and for each year thereafter, the Trust shall, on or about April 1 of each such year, prepare quarterly reports for public review detailing the activities and accomplishments of the Trust for the prior year, including, without limitation, investments, grants, and other monies received by the Trust; projects supported by the Trust; articles of incorporation, by-laws and rules and regulations adopted or amended by the Trust; and the Trust's quarterly financial statements. A copy of each quarterly report shall be presented to the Mayor and the City Council.
- (9) The Trust will comply with all applicable City procurement rules and requirements, including, without limitation, Article IV (Minority-Owned and Women-Owned Business Enterprise Procurement Program) and Article VI (M.B.E./W.B.E. Construction Program) of Chapter 2-92, as amended, of the Municipal Code.

(H) Power and Authority of City Council

The prior approval of the City Council shall be required for any transaction to be undertaken by the Trust that seeks to utilize present or anticipated funds, revenues, assets or properties of the City. Nothing in this Section supersedes, limits or otherwise affects the power and authority of the City Council with regard to any projects or financing transactions involving the Trust.

SECTION 4. Commercial Linkage Fee for the Obama CBA Residential Area

The Department of Planning and Development shall engage an independent consulting entity to conduct a study (the "Nexus Study") on the potential use of a Commercial Linkage Fee in the Obama CBA Residential Area to mitigate the potential for displacement of low, moderate, and middle income residents caused by increased housing, commercial, and other development in the area.

The Nexus Study shall study the appropriateness and scope of instituting a Commercial Linkage Fee that applies to large businesses, large nonprofits, and large developments which build or develop commercial projects in the Obama CBA Residential Area. The fee would not be intended to apply to small businesses, small nonprofits, or small developments. This fee would be intended to directly mitigate the effects of increased commercial activity, particularly larger developments, that might contribute to rising cost of living and displacement. Further, the fee would be intended to fund affordable housing, homeownership, and supporting local jobs for residents.

The Nexus Study shall be conducted by one or more non-profit organizations or academic institutions with significant expertise in urban development and housing with a specific understanding of Chicago neighborhoods.

The Nexus Study shall determine what, if any, Commercial Linkage Fee is appropriate for the Obama CBA Residential Area to prevent displacement of low, moderate, and middle income residents and to ensure that the current and long-time residents of the area are able to benefit from the new developments through housing security and economic engagement.

SECTION 4. Section 2-44 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-44-140, as follows.

Section 2-44-140

The Community Opportunity to Purchase Act in the Obama CBA Residential Area

(A) **Title and Purpose.** This section shall be known and may be cited as the “Community Opportunity to Purchase Act in the Obama CBA Residential Area ” and shall be liberally construed and applied to achieve its purpose, which is to preserve, maintain, and create affordable rental and owner-occupied housing for low, moderate, and middle income households in the area of the Obama CBA Residential Area. This Section shall apply to the Obama CBA Residential Area. A map of the Obama CBA Residential Area is on file in the Office of the City Clerk and made a part hereof. The boundary lines of the Area follow streets, and such boundary lines are to be construed as the center lines of said streets.

(B) **Definitions.**

“Affordable housing” means housing where the residents pay no more than 30 percent of their adjusted gross monthly household income in rent.

“Area Median Income” means the Unadjusted Area Median Income published by the U.S. Department of Housing and Urban Development for the geographic area that includes the City.

“City” means the City of Chicago.

“Commissioner” means the commissioner of the Department of Housing.

“Department” means the Department of Housing, or any successor agency, department, or office.

“Fee Interest” means ownership of real property in fee simple.

“Multi-Family Residential Building,” or “Building,” means any privately-owned real property in the Obama CBA Residential Area improved with three or more residential rental units (whether or not the property also includes non-residential uses).

“Purchaser” means the individual, individuals, entity, or entities engaged, or seeking to engage, in the Purchase of a Multi-Family Residential Building.

“Selling or otherwise transferring ownership” means transferring the current owner's interest in a Multi-Family Residential Building to any person, other than a member of the owner's family, by any means, including changing the title or changing the beneficiary of a trust. This definition

does not include any internal transfer of control between current officers, members, or managers of corporations, partnerships, or other business entities. Nor does this term apply to any transfer of a Building to a tenant, group of tenants, or association of tenants that are currently living in the building. Nor does this term apply to any transfer of an interest in real property subject to the requirements of Section 2-44-120 (the Affordable Housing Preservation Ordinance).

“Qualified Purchaser” is defined in subsection (D).

(C) Preservation Fees

Any preservation fee remitted pursuant to this Section shall be calculated by the Commissioner of Housing. The formula for determining such fees may be adjusted annually based upon the United States Bureau of Labor Statistic’s Consumer Price Index for all Urban Consumers for the Chicago metropolitan area, or, if this index no longer exists, some other comparable index, selected by the Commissioner of Housing in his or her reasonable discretion

(D) Qualified Purchasers List

The Commissioner shall maintain a list of qualified purchasers of nonprofit organizations, for-profit companies, Community Land Trusts, and Land Banks that have demonstrated a commitment to the provision of affordable housing for low, moderate, and middle income city residents, and to preventing the displacement of such residents. The Commissioner will establish a process for certifying, on an annual basis, the list of Qualified Purchasers. The Commissioner shall promptly investigate any organization which displays a failure of upkeep in buildings, a pattern of unjust evictions, or significant complaints from tenants and remove such organizations from the list of Qualified Purchasers.

(E) Sales and Transfers of Multi-Family Residential Buildings

(1) First Right to Offer Conferred. Prior to selling or otherwise transferring ownership in any Building, the owner shall:

- (i) provide to the Department of Housing by first class mail, and to the residents of the Building by first class mail, at least 180 days’ notice of a proposed sale or transfer of the property, which the Commissioner shall share with the Qualified Purchasers;
- (ii) allow 180 days following the date of notice for a buyer, whether a Qualified Purchaser or not, intending to maintain affordable housing at the location, including, but not limited to, current residents and their representatives, to tender an offer which includes a commitment to maintain a minimum of 30% of the units as affordable rental units for households earning up to 60% of the AMI; and
- (iii) upon receiving such offer, engage in good-faith negotiations, during the remaining portion of the 180-day period, as well as any extension of time beyond that 180-day period agreed to by the owner and the offering party, toward a purchase and sale agreement with the offering party;

- (2) **Exclusive Negotiation Period.** During the 180 day period required by subsection (E)(1) the owner shall not list the building for sale publicly, solicit offers that do not include a commitment to maintain affordable housing, or negotiate any offers which do not include a commitment to affordable housing.
- (3) **Expiration of Exclusive Negotiation Period.** If no such offer is received during the exclusive period, the owner may solicit other offers.
- (4) **Alternative to Compliance.** As an alternative to complying with Subsection (E)(1), the Owner may instead:
- (i) sell the building to a tenant of the building, group of tenants of the building, or tenants association of the tenants of the building; or
 - (ii) remit to the City before selling or otherwise transferring ownership in a multi-family residential building, an affordable housing preservation fee in the amount of the number of units at the property times \$20,000 (as adjusted pursuant to subsection (C).
- (5) **Confidential Information Protected.** Any information obtained from a Seller by a Qualified Purchaser under this Section—including, but not limited to, disclosures made under subsection (G), and terms and conditions of an offer of Sale made under subsection (F)—shall be kept confidential to the maximum extent permitted by law, except that a Qualified Purchaser may, if otherwise permitted by law, share such information with other Qualified Purchasers to facilitate Qualified Purchaser's exercise of the rights conferred by this Section. Nothing in this Section permits or requires the disclosure of information where such disclosure is otherwise prohibited by law.
- (6) **Preexisting Rights Unaffected.** This Section shall not be construed to impair any contract, or affect any property interest held by anyone other than the Seller of a Multi-Family Residential Building (including, but not limited to, any interest held under a mortgage, deed of trust, or other security interest; any option to purchase; or any right of first offer or right of first refusal), in existence before the effective date of this Section.

(F) Incentive; Real Estate Property Tax Exemption

Sales made pursuant to subsections (E)(1) and (E)(4)(i) shall be exempt from tax imposed by Chapter 3-33 of the municipal code (the Real Property Transfer Tax).

(G) Existing Tenant Protections upon Sale to Tenants

Following the Sale of a Multi-Family Residential Building to a tenant of the building, group of tenants of the building, or a tenants association of the tenants in the building, each existing residential tenant who is not a purchaser or member of the purchasing tenants association in the Building shall be permitted to retain that tenant's existing leasehold interest according to the terms (including, but not limited to, duration) of that tenant's existing lease. Existing tenants that

of resided in the Building for more than a year shall each have an automatic right to extend an existing lease under substantially similar terms by a period of one-year after the expiration of the tenant's current lease.

(H) Enforcement.

Any resident of a building subject to the requirements of this Section who is injured by a violation of this Section may institute injunctive, mandamus, or other appropriate legal action seeking enforcement. A resident who institutes a legal action pursuant to this Section and is adjudged to be a prevailing party may be awarded attorney's fees and court costs.

If the City initiates or joins any enforcement action against an owner who violates or resists enforcement of subsection (E), the owner shall be fined not less than \$200.00 nor more than \$500.00 for each offense upon which a finding of liability is entered. Each day a violation continues shall constitute a separate offense.

If the owner of a multi-family building sells or otherwise transfers the property before remitting to the City a preservation fee required under this Section, the owner and purchaser shall be jointly and severally liable for the payment of such fee.

- (I) Rules.** The Department shall have the power to interpret and implement this Section. The Department shall, within 90 days of the effective date of this Section, promulgate appropriate rules or regulations interpreting and implementing this Section, including the establishment of procedures to implement this Section, in a manner that the Department deems most appropriate. The Department may thereafter revise those rules or regulations from time to time.

Section 5. Chapter 3-33 of the Municipal Code is hereby amended by deleting the stricken text and adding the underscored text as follow:

CHICAGO REAL PROPERTY TRANSFER TAX
3-33-060 Exemption Transfers

Subject to the requirement contained in subsection 3-33-070(C) of this chapter, the following transfers are exempt from the tax or the specified portion of the tax imposed by this chapter:

- (A)** Transfers of real property made prior to January 1, 1974 where the deed was recorded after that date, or assignments of beneficial interest in real property dated prior to July 19, 1985 where the assignment was delivered on or after July 19, 1985;
- (B)** Transfers involving real property acquired by or from any governmental body, or acquired by with respect to the City portion, or acquired from with respect to the C.T.A. portion, any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or acquired by any international organization not subject to local taxes under applicable law;

- (C) Transfers in which the deed, assignment or other instrument of transfer secures debt or other obligations; provided, however, that any transfer must be to a mortgagee or secured creditor;
- (D) Transfers in which the deed, assignment or other instrument of transfer, without additional consideration, confirms, corrects, modifies, or supplements a deed, assignment or other instrument of transfer previously recorded or delivered;
- (E) Transfers in which the transfer price is less than \$500.00;
- (F) Transfers in which the deed is a tax deed;
- (G) Transfers in which the deed, assignment or other instrument of transfer releases property which secures debt or other obligations;
- (H) Transfers in which the deed is a deed of partition; provided, however, that if a party receives a share greater than its undivided interest in the real property, then such party shall be liable for tax computed upon any consideration paid for the excess;
- (I) Transfers between a subsidiary corporation and its parent or between subsidiary corporations of a common parent either pursuant to a plan of merger or consolidation or pursuant to an agreement providing for the sale of substantially all of the seller's assets;
- (J) Transfers from a subsidiary corporation to its parent for no consideration other than the cancellation or surrender of the subsidiary's stock and transfers from a parent corporation to its subsidiary for no consideration other than the issuance or delivery to the parent of the subsidiary's stock;
- (K) Transfers made pursuant to a confirmed plan of reorganization as provided under Section 1146(c) of Chapter 11 of the United States Bankruptcy Code of 1978, as amended;
- (L) Transfers of title to, or beneficial interest in, real property used primarily for commercial or industrial purposes located in an enterprise zone, as defined in Chapter 16-12 of this Code;
- (M) Transfers in which the deed or other instrument of transfer is issued to the mortgagee or secured creditor pursuant to a mortgage or security interest foreclosure proceeding or sale or pursuant to a transfer in lieu of foreclosure; and
- (N) Transfers in which the transferee is a participant in the Illinois Home Ownership Made Easy Program (H.O.M.E.), authorized under the Illinois Home Ownership Made Easy Act, 310 ILCS 55/1.
- (O) Transfers in which the transferee is a person 65 years of age or older who demonstrates, by proof acceptable to the Chicago Tax Assistance Center, (1) that he will occupy the property as his principal dwelling place for at least one year following the transfer, and (2) that the transfer price is \$250,000.00 or less; provided, that this exemption applies only to the C.T.A. portion of the tax; and provided further, that this exemption shall be

administered in the form of a refund for which the transferee desiring the refund shall apply to the Chicago Tax Assistance Center within three years following the transfer.

- (P) Transfers made pursuant Sections 2-44-140(E)(1) or 2-44-140(E)(4)(i) of the Community Opportunity to Purchase Act in the Obama CBA Residential Area Act.

SECTION 6. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or any portion thereof, is in conflict with any provision of this ordinance, the provisions of this ordinance shall control. The provisions of this ordinance are declared to be separate and severable. The invalidity of any provision of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION 7. This ordinance shall take effect thirty days after its passage and approval.

Attachments: Exhibit A - Depiction of Obama CBA Residential Area

[illegible]

Exhibit A
Depiction of the Obama CBA Residential Area
(Attached)